

REMARKS

The Examiner required restriction of one of the following inventions:

I. Claims 1, 5-14, 17-18, and 35-38, drawn to a microphone assembly.

Species in Group I:

- A) Claims 1, 5, 7, 8, 17, 35, and 38
- B) Claim 36
- C) Claim 37
- D) Claims 6, 11, 12, and 13
- E) Claims 9 and 10
- F) Claim 14

II. Claims 26-34 drawn to a microphone assembly with multiple elements.

Species in Group II:

- A) Claims 27, 28, 29, and 30
- B) Claims 31 and 33
- C) Claims 32 and 34

In response to the Examiner's restriction/election requirement, Applicants elect, with traverse, to prosecute Group I, Species A including claims 1, 5, 7, 8, 17, 35, and 38. Applicants specifically reserve the right to file one or more divisional applications directed to non elected claims 6, 9-14, and 26-34, 36, 37. Further, Applicants assert that claim 1 is generic to all the claims of Group 1, and is at least generic to claim 36 where claim 1 recites a "filter means" and claim 36 recites that "the filter means is a band-pass filter". Moreover, Applicants submit that when the generic claim 1 is allowed, each of the species A) – F) of Group I should be rejoined and each of the claims of species A) – F) of Group 1 should be allowed.

With respect to Applicants' traversal, Applicants respectfully direct the Examiner's attention to M.P.E.P. § 803 which states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims too distinct or independent invention." (emphasis added)

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

"2) there must be a serious burden on the Examiner if a restriction is not required. See M.P.E.P. §803.092, 806.04 A through J, 808.01(a) and 808.02."

Applicants respectfully submit that the Examiner would not be unduly burdened if forced to examine Groups I and II. Moreover, Applicants submit that the Examiner has constructively admitted that there is no serious burden to examine the claims since the Examiner has already Examined the claims as shown in the last Office Action mailed November 7, 2003.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of all claims in the instant application are earnestly solicited.

Attorney Docket No: 45900-000664/US

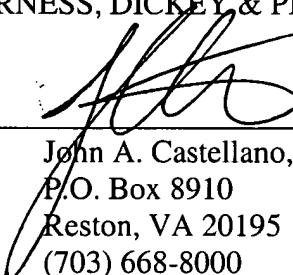
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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